

REMARKS

This Amendment is in response to the outstanding Official Action mailed December 8, 2004, the shortened statutory period for filing a response having expired on March 8, 2005. Applicant submits herewith a three-month extension petition to reset the deadline for responding to the Official Action to and including June 8, 2005. Reconsideration of the Examiner's rejection is respectfully requested.

The present application includes claims 1-49, of which claims 45-49 have been designated as being allowed. Of the remaining claims, claims 1, 17, 24, 33, 37 and 40 have been presented in independent form. The Examiner has indicated that dependent claims 5, 7-12, 14, 15, 18, 19, 21, 22 and 27 would be allowed if rewritten into independent form. The remaining claims have been rejected as being obvious under 35 U.S.C. § 103(a) over your prior international application, WO 00/25640 in view of Zerbst, United States Patent No. 2,062,156, in further view of Rasor et al., United States Patent No. 4,911,348, and in further view of Anderson, United States Patent No. 2,628,051.

In applying the cited references, the Examiner recognizes that Oddsen, although purportedly disclosing all of the limitations of the claims, does not disclose at least the combination of one or more pins extending from one element to be received in corresponding opening(s) in another element, so as to prevent twisting of the elements relative to one another. Recognizing these deficiencies in Oddsen, the Examiner refers to Zerbst as disclosing a circular pin (24) on one element (15) and a corresponding circular opening in an attachment member (13) so as to receive the pin thereby preventing the element from twisting relative to the attachment member. The Examiner further contends that it would have been obvious to modify

Oddsens in view of *Zerbst* to include a pair of pins and a pair of openings such as taught by *Rasor et al.* for the purpose of providing a better means of preventing rotation or twisting, citing Column 4, lines 52 et seq. In view of the below remarks, the Examiner's rejection is considered traverse and should therefore be withdrawn.

Applicant disagrees with the Examiner's position that the use of a single circular pin to be received in a corresponding circular opening as disclosed in *Zerbst* is operable to prevent twisting between the two corresponding members. It is a matter of fact that a circular pin when inserted into a circular opening, without more, is free to rotate, and therefore, is incapable of preventing twisting as between the corresponding members. This fact was pointed out to the Examiner in Applicant's communication of March 19, 2004.

In this regard, *Zerbst* discloses that the function of the pin 24 is for alignment purposes. Specifically, *Zerbst* teaches that the proper position of attaching attachment member 13 to element 15 is achieved by the pin 24 being inserted into one of the openings in the attachment member. (See col. 2, lns. 64-74.) The use of the pin 24 will not prevent twisting as suggested by the Examiner. In order to maintain the plate holder in a fixed erect position, *Zerbst* also requires for the use of a bolt 25 and its associated nut, in combination with the aforementioned pin. (See col. 2, lns. 74 et seq.) Accordingly, there is no disclosure in *Zerbst* of using the cylindrical pin 24 as the sole means for preventing twisting between element 15 and attachment member 13. Rather, contrary to Applicant's claimed invention as to be discussed hereinafter, *Zerbst* requires the additional use of a bolt and nut. (See FIG. 3 of *Zerbst*.)

The Examiner's reference to *Rasor et al.* does not overcome the deficiencies in the cited combination of *Oddsens* and *Zerbst*. The Examiner refers to *Rasor et al.* as disclosing in

Fig. 3 the use of a pair of pins 58 purportedly by the Examiner to prevent twisting. However, the disclosure in *Rasor et al.* states that the pins, e.g., pegs 58, "may be" used to further stabilize the retaining bracket 42 with respect to the stanchion 22. There is no disclosure of these pins/pegs being used to preclude rotation between the two elements. Based on the construction of the disclosed assembly in *Rasor et al.*, these pins/pegs are not required to prevent twisting between the elements. As shown in Fig. 5, the retaining bracket 42 is received within the elongated channel 34. This channel will preclude twisting of the retaining bracket by itself. Furthermore, the retaining bracket is secured to the stanchion by means of bolts 44 and 54. These two bolts will preclude twisting to the extent such twisting could occur.

The Examiner's citation to Column 4, lines 52 *et seq.* of *Rasor et al.* does not support the rejection. There is no mention in the referred to portion of *Rasor et al.* of the use of the pins/pegs to prevent twisting as suggested by the Examiner. As noted hereinabove, it is specifically stated that the pins/pegs may optionally be provided on the retaining bracket 42 to "further stabilize the retaining bracket 42 with respect to the stanchion 22." There is no mention in *Rasor et al.* of the pegs being used to prevent twisting between the retaining bracket and the stanchion. As previously noted, twisting in the construction of *Rasor et al.* is prevented by the use of bolts 44 and 54, thereby obviating the need for the pegs 58. It is for this reason that *Rasor et al.* states that "Pegs 58 may also be provided..." [Emphasis supplied]. Thus, the pins/pegs when described to enhance stabilization would not suggest their use to prevent twisting. As such, *Rasor et al.* did not contemplate

the use of the pegs to prevent twisting, but rather, to further stabilize the retaining bracket with respect to the stanchion.

Contrary to *Zerbst* and/or *Rasor et al.*, Applicant's claimed invention precludes twisting between the first and second members in accordance with either of two disclosed embodiments as set forth in the respective independent claims. In the first embodiment, a single pin can be used, provided the pin has a noncircular shape. The insertion of a single pin of noncircular shape into a correspondingly shaped noncircular opening will prevent twisting between the two members. Where a circular shaped pin is used, a pair of such pins is required for insertion into corresponding circular shaped openings. What should be apparent to the Examiner is that the use of a single cylindrical pin cannot by itself prevent twisting between two members. Applicant having recognized this fact, have incorporated either a noncircular shaped pin, or at least a pair of circular shaped pins as set forth in the claims.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

Application No.: 09/884,540

Docket No.: INNOFF 3.0-011

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 7, 2005

Respectfully submitted,

By 

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